

DEVELOPMENT REVIEW COMMITTEE

Tuesday, June 27, 2017

MEETING MINUTES

The Monroe County Development Review Committee conducted a meeting on **Tuesday, June 27, 2017**, beginning at 1:24 p.m. at the Marathon Government Center, Media & Conference Room (1st floor, rear hallway), 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER

ROLL CALL by Ilze Aguila

DRC MEMBERS

Mayte Santamaria, Senior Director of Planning & Environmental Resources	Present
Mike Roberts, Sr. Administrator, Environmental Resources	Present
Emily Schemper, Comprehensive Planning Manager	Present
Kevin Bond, Planning & Development Review Manager	Present

STAFF MEMBERS

Steve Williams, Assistant County Attorney	Present
Peter Morris, Assistant County Attorney	Present
Devin Tolpin, Planner	Present
Ilze Aguila, Sr. Planning Commission Coordinator	Present

CHANGES TO THE AGENDA

There were no changes to the agenda

MINUTES FOR APPROVAL

Approval of the meeting minutes for Tuesday, May 30, 2017.

MEETING

1. Rockland Key Commercial/Mixed Use Project, 101 Overseas Highway, Rockland Key, Mile Marker 10 Gulfside: A public meeting concerning a request for a Development Agreement between Monroe County and Rockland Investment Corporation, Inc., Basin Development Company, LLC, SJK Investment, LLC and Key West/SAV, LLC. The requested agreement relates to the development of a proposed Rockland Commercial/Mixed-Use Center. No structures will be higher than 35 feet. The subject property is parcels of land in Part of Government Lot 7, Section 21, Township 67 South, Range 26 East, Rockland Key, Monroe County, Florida, having real estate numbers 00122070-000200, 00122070-000201, 00122070-000400, 00122070-000500, 00122070-000600, 00122080-000200, 00122080-000300, 00122080-000302, 00122080-000303 and 00122080-000304.
(File 2014-164)

Mr. Kevin Bond presented the staff report. The requested Development Agreement involves the redevelopment of the heavy-industrial property historically known as the Rockland Key Industrial Park and referred to as the Rockland Commercial Center. It's a 33.86-acre property located in the Rockland Key Commercial Retail Center Overlay District. Pursuant to Section 130-11 of the Monroe County Land Development Code, prior to the submittal of any development application involving commercial retail use, the developer shall enter into a Development Agreement with the BOCC in accordance with the procedures set forth in Section 110-132. The conceptual site plan attached to the Development Agreement indicates the proposed development would include a 134,623 square foot Walmart retail store and gas station, a 12,000 square foot medical center, a 5,000 square foot clubhouse and community center, a 4,800 square foot space for additional retail tenants, a 3,000 square foot restaurant, a 10-acre workforce housing site, and a 5.5-acre conservation and maintenance area.

Mr. Bond first pointed out that the parcel with real estate number 00122080-000302 was included in the Overlay District but that the parcel boundaries had changed since the amendment to the Overlay District, which is a discrepancy that would need to be addressed, and the referenced 33.86-acre land area excludes this parcel in its current configuration and is not included in the total land area of the site. This meeting is for DRC review of the application and after this step, the Development Agreement will be reviewed by the Planning Commission, who will make a recommendation to the BOCC, who will then make the final decision.

Mr. Bond explained that per Section 110-133 of the County Land Development Code, there are several requirements for a Development Agreement and proceeded to list those requirements not in compliance, noting that A and B were in compliance. Starting with C, the development uses permitted on the land, including population densities, building intensity and height, the Development Agreement lists the proposed uses in Section 3D, but includes affordable workforce housing which is currently not a permitted use in the Overlay District and is also not consistent with Section 130-131(A) or the permitted uses of the overlay, and 130-131(4)(1). Regarding population densities, the proposed Development Agreement indicates that no fewer than 312 employee workforce housing units are proposed, but no densities are stated. The agreement refers to the conceptual site plan in Exhibit D, but the site plan indicates a 10-acre housing site with no densities or number of units indicated on the conceptual plan. Regarding height, the language needs to be revised to be consistent with the Comp Plan and Land Development Code. Regarding criteria D, a description of the public facilities serving the development is required. Transportation facilities are not addressed in Section 3E, although in 3G there is discussion of potential transportation improvements which are divided into three main areas; Stock Island, Big Pine Key and Segment 3 on Big Coppitt. The main deficiency with this section is that the language does not provide a date for when the new facilities would be constructed. There is also no commitment for the developer to fund the design, permitting, installation or construction of the required improvements. The proposal is inconsistent with the inclusion in LCD Code Section 130-131 (D)(7) in stating that the developer shall not be responsible for undertaking the design and construction of the traffic signalization and improvements. This is contrary to the Code and the Comp Plan.

Mr. Bond continued noting one requirement of the Overlay District is that the developer must provide a bicycle pedestrian path and a multi-modal transit stop including a designated area for bicycle, scooter and motorcycle parking and an electric car charging system. Only the bike plan is proposed on the site plan. The developer proposes to pay for one bus at a maximum cost of \$100,000. Staff finds this consistent, with the exception of the cost limit, and staff is requesting additional data and analysis to support the dollar figure. Another requirement is that the developer must construct and make available to the County for a term of no less than 10 years, a facility for use by members of the public consisting of at least 5,000 square feet of floor area. Though this is proposed in the agreement, staff found that the inclusion of a 10-year limit for the lease is not consistent and requests a justification for that limit. Criteria F: Requires a list describing all local development permits approved or needed and is included in Section 3K. After getting conceptual site plan approval, the developer will need conditional use approval, building permits and final site plan approval. The applicant is requesting up to 10 years to get the first CO for the project and four years from the effective date of the agreement to get the first building permit. Criteria G: The development is not consistent with the Comp Plan and as currently proposed. Nothing was found inconsistent under Criteria H and I. There are Florida Statute and County Code requirements that the developer must include a description of any conditions, terms, restrictions or other requirements determined to be necessary by the local government for the public health, safety or welfare of its citizens. As part of that, the developer is required to be responsible for the funding, designing, permitting, installation and construction of any required improvements to U.S. 1 prior to issuance of building permits or Certificates of Occupancy if applicant enters into a Development Agreement with the County, which regulates the timing of improvements to U.S. 1. Improvements needed are a Level 3 Traffic Study to include an analysis of impact from the City of Key West and Big Pine Key and copies of any correspondence concerning the proposed development to or from FDOT, including any applications submitted to and permits received from FDOT. The traffic study submitted was a Level 3 but did not include the Key West/Big Pine analysis. The study indicates that a traffic signal is warranted, but the Development Agreement does not specify the traffic signal as being part of the improvements, nor does it commit the developer to the funding, designing, etc., for that signal. Additionally, the Development Agreement includes a dollar cost figure of \$100,000 without any supporting backup documentation. Information is needed on the improvements and the FDOT correspondence and permits for compliance.

Another requirement of the Overlay District requires the developer to enter into a Development Agreement to address affordable housing and is contingent upon a mutually agreeable affordable housing requirement. The draft Development Agreement provides three proposals: 1) The applicant would like to use a potential future Land Development Code amendment that provides an employee workforce housing linkage requirement, which assumes building permits and COs for the project would be issued prior to the provision of affordable housing and does not set a time frame for providing that affordable housing. This Code language has not yet been drafted or considered by the County Commission. 2) To pay a fair-share contribution into an escrow account after issuance of building permits but prior to commencing construction for the commercial center, which assumes building permits and COs would be issued prior the affordable housing being provided and does not set a time frame for providing that affordable housing. 3) That affordable housing would be developed on the subject property, which is based on a potential FLUM and development approval. The applicant proposes that this separate

development approval for the affordable housing component happen after approval of this development agreement for the commercial component. One problem identified by staff is that the location for the proposed affordable housing is within the Navy's noise contour map area and is within the Rockland Key Commercial Retail Center Overlay District which eliminates residential density of the property. Residential use is not allowed by the Overlay District.

In summary, the affordable residential component and would require a FLUM amendment, a Land Use District or Zoning Map amendment as well as text amendments to the current Overlay District itself, which would all need to be approved to allow residential development of the property. There has been no documentation submitted with coordination of the Naval Air Station nor is there a time frame set out in the Development Agreement committing the developer to provide it. There is an inconsistency between the Development Agreement which states 300 units would be proposed and the traffic report which states 400 units are proposed. The Development Agreement states a separate Development Agreement will be proposed to address the affordable housing component, again assuming the Development Agreement would be approved, and does not include a time frame.

Additional staff comments include the following: Exhibit A does not indicate the entire property and should include the Rockland Overlay Map boundary. On Exhibit C, staff is requesting clarification that the legal description indicated is the most recent and up-to-date legal description and that it refer back to the parcel boundary inconsistency. Exhibit D, the conceptual site plan, is not labeled Exhibit D. Staff is recommending a number of changes to the conceptual site plan such as indicating buildings, the amount of floor area, bike paths and pedestrian paths, providing more detail on the affordable housing site and the transit stop and indicating densities. Staff requests the traffic study and signal warrant analysis be added as an exhibit as well as the identified mangrove wetlands in associated transitional upland buffer areas. The latest draft of the Development Agreement states Trepanier and Associates is authorized to execute the agreement on behalf of the owner and developer, but the agreement does not list Owen Trepanier on the signature pages.

Staff does not recommend approval of the Development Agreement as proposed and asks the applicant to address the issues outlined in the memo and, once received, reserves the right to request additional provisions and revisions. Additionally, the applicant/owner hereby acknowledge and agree that any staff discussions or negotiations about conditions of approval are preliminary only and are not final, nor are they specific conditions or demands required to gain approval for the application unless those conditions and demands are actually included in writing in the final Development Order or the final Denial Determination/Order. Staff also reserves the right to make any such alterations as may be necessary to ensure that this memorandum and the Development Agreement comply with all applicable laws.

Ms. Mayte Santamaria asked if there was any additional staff comment. Ms. Emily Schemper inquired as to page 11, under F, regarding the time limits and the requested 10-year time frame asking whether the conditional use approval would then have the normal three-year time frame. Ms. Santamaria responded it would. Ms. Schemper then inquired as to the Development Agreement and the 10-year time frame requested, noting that the applicant is proposing 10 years to obtain the first CO for a building, but only talks about the first building and does not address

completing the proposed project and all of the requirements of it. Ms. Schemper questioned whether this should be more specific or left open. Ms. Santamaria responded that with 10 years for the Development Agreement, the conditional use would have the same time frame as normal, but that the applicant could extend and ask for continuances to that to keep it alive within the 10-year time frame. Ms. Schemper then asked if the applicant would be required to complete everything within the 10-year time frame as it appears to say that a CO is only required for some building, not all buildings. Ms. Santamaria noted that this should be coordinated on with the applicant and that it should be all buildings. Ms. Santamaria asked for further staff comments.

Mr. Mike Roberts asked for some clarifications as to the site plan, indicating that the site plan does not provide any detail on either stormwater or landscaping. Ms. Santamaria responded that this is conceptual only. Mr. Roberts indicated he was aware of that, but asked whether it would be appropriate to include language in the Development Agreement or elsewhere that specified those items were not a part of the conceptual approval. Ms. Santamaria indicated that could be added in and discussed with the applicant.

Ms. Santamaria asked for further staff comments. There was none. Ms. Santamaria asked if the applicant would like to speak. Mr. Owen Trepanier stated his team would be taking staff's notes and would respond back with a revision, hopefully within a couple of weeks. Ms. Santamaria then asked for public comment.

Ms. Ashley Monnier, Community Planning Liaison Officer for Naval Air Station Key West, mentioned the Navy's AICUZ compatibility concerns, indicating that the proposed residential development is not compatible within the noise zones of 70 to 74 and 75 DNL.

Ms. Jean Barber of Big Coppitt stated she has had a general objection to the project since it was initiated. The community had been led to believe there was going to be a Target store and were more interested in that type of shopping. She believes the quality of life in the Keys, especially around Rockland and Big Coppitt, will be ruined. The traffic presently is pretty impossible, particularly for those commuting to work and school and the impact of traffic will be huge. A big housing development is already coming to the same area and this would add more. She is also concerned about safety, the increase in population, the general environment and plastic bags blowing around as this is right near the water. Ms. Barber added that she is married to a seventh-generation Conch who says he has never seen the water as high as it is now around this area. Ms. Barber also questions the business plan and does not see a Walmart being successful in this location as so many people shop online. People living in Key West will have difficulty getting to this location and would likely go all the way to the mainland where there are more shopping opportunities. The Walmart in Homestead causes her to be frightened and she does not want this in the Keys.

Mr. Bill Hunter of Sugarloaf Key indicated he had both some general questions and then detailed questions about the affordable housing segment. Mr. Hunter first asked Mr. Trepanier whether he would come back before the DRC after making changes based on staff comments. Mr. Trepanier responded that he would next go before the Planning Commission. Mr. Hunter then asked if what was in the application for affordable housing was the intent. Mr. Trepanier responded that that was what was before DRC today. Mr. Hunter then stated that early

comments regarding the community center lease were that it would be closer to in perpetuity rather than only 10 years, that he did not recall any discussion about the time limit and believes the community would want more than 10. Mr. Hunter would also prefer to see a commitment to a specific number of charging stations as he believes the need for them will increase in the future. As to affordable housing, the mutually agreeable number of 300 had been floating around, but had been based on much more square footage, yet this plan has not quite half as much square footage. He would anticipate the number of affordable houses required would go down but would prefer language closer to what is actually anticipated. Mr. Hunter then commented on a statement as to the ROGOs shall be made available early in the process, but does not believe it is in the County's best interest to tie them up for 10 years and the wording should be tightened up closer to when they would actually be used. He does understand that the developer would need the commitment, but feels the time is too long. Ms. Santamaria interjected that this was addressed at page 10 of 19 of the Development Agreement where the third option proposed to satisfy affordable housing, which would be a separate Development Agreement for affordable housing and would tie the ROGOs to that separate agreement. Mr. Trepanier added that the proposal is for three alternatives to an affordable housing agreement. The way it's written right now is the applicant would make the contribution to the fair share which is three bucks a square foot, but he understands the County is in the process of limiting. Mr. Hunter stated they had limited. Ms. Santamaria confirmed that as of the last BOCC meeting. Mr. Trepanier continued that the other alternative was to build somewhere within close proximity or on site, but that this agreement doesn't allow them to build on site or bind the County's hands. It only says the County will allow them to move through the process to seek approval to build on site but, as Ms. Monnier had stated, there are obstacles. Mr. Hunter was concerned, knowing those obstacles, what would be the alternative, that the three dollars per square foot came up to less than a half-million dollars and 300 units at \$250,000 apiece is something around 75 million, so the numbers didn't match. The Development Agreement calls for that three dollars per square foot to satisfy the escrow while the thing is built and used but then says, regardless of the ability to meet that commitment, the shopping center can continue to be used. Mr. Trepanier clarified that the agreement says if the housing is not provided that there would be no further development on the property. Mr. Hunter felt that the discussion about linkage was confusing because whatever the County approved in terms of "inclusionary for commercial," is not linkage and there is linkage in the Code and that he was confusing "inclusionary" with "linkage" and they are really not the same. And given that there is a planned development in close proximity to the planned shopping center, linkage becomes a very important word. Mr. Hunter's last question was whether it would be reasonable to ask whether the employee workforce housing commitment would be for ownership or rental. Mr. Trepanier responded that though it was reasonable to ask, he did not have the answer to that, though he would guess rental.

Ms. Santamaria asked if there was any further comment. There being none, she explained that the staff report was available online and they would move on to the second item.

2. Publix Super Market, 30250 Overseas Highway, Big Pine Key, Mile Marker 30.2 Oceanside: A public meeting concerning a request for a Major Conditional Use Permit. The requested approval is required for the development of a proposed 47,513-square-foot commercial retail Publix supermarket. The subject property is Parcels 4, 13, 14, 15, 16, 17 and 18, as per not recorded sketch of Tropic Island Ranchettes, Big Pine Key, Monroe County, Florida, having real

estate number 00111420-0001400, 00111420-001500, 00111420-001600, 00111420-001700, 00111420-001800, 00111420-002100 and 00111420-002200.
(File 2016-101)

Mr. Kevin Bond presented the staff report and began by defining the three different areas of the property that he would be discussing; the Main Parcel being where the Publix store would be located, Parcel A which fronts on U.S. 1 along Deer Run Trail, and then Parcel C which is between Parcel A and the Main Parcel along Quail Roost Trail. The location of the proposed Major Conditional Use is Big Pine Key near U.S. 1 Mile Marker 30.2 Oceanside, currently known as the Big Pine Key Flea Market site and is bounded by Quail Roost Trail, Palomino Horse Trail, Paradise Lane and Deer Run Trail. The property is 7.66 acres located in the Suburban Commercial Land Use District and the Mixed Use Commercial FLUM Category, designated Tier III with an AE8 flood zone.

Mr. Bond indicated he would go through the criteria for Major Conditional Use Permits highlighting the areas not in compliance at this time. For Standard 1, compliance is to be determined based on policies of the Livable CommuniKeys Master Plan for Big Pine and No Name Keys. Mr. Bond highlighted Policy 101.6.9 regarding non-residential development, stating that this property is not located in the Community Center Overlay and therefore, the maximum allocation award possible would be 2,500 square feet. The property is also within the Master Plan for future development. Under Action Item 1.4.5, there are policies that allow buildings to be larger than 2,500 square feet and have higher floor-area ratios, but for the same reasons, this property would not be eligible for those incentives. Action Item 4.2.2 states new commercial square footage can be allowed exceeding 2,500 square feet if located in the Community Center Overlay District, which this project is not.

Mr. Bond continued with Standard 2, that the Major Conditional Use is consistent with the community character of the immediate vicinity of the parcel proposed for development. Staff found this in compliance. Standard 3, that the development minimizes adverse impacts including visual impacts of the proposed use on adjacent properties. Staff found that standard not in compliance due to concerns regarding the design of the parking lot and circulation. All of the surrounding streets are private ingress/egress easements so they are not on County right-of-way, but those easements function as roads to and from the site. Generally, whether a County road or not, parking lot designs that have circulating between rows of parking off site should be avoided. Therefore, staff requests the design be worked on more to minimize that as much as possible.

Standard 4 pertains to the proposed use having an adverse impact on the value of surrounding properties. Staff found there was no evidence either way that property values would be affected and was therefore in compliance. Standard 5 deals with the adequacy of public facilities and services including roads and with the parking lot design there are currently 11 access points along Quail Roost Trail, Palomino Horse Trail and Deer Run Trail. Staff is asking for rethinking of the design to minimize that off-site circulation. The submitted traffic study included some recommendations with respect to the intersections in the immediate vicinity that would be impacted. Staff is asking the applicant to address those recommendations. In addition, the County's traffic consultant and the applicant's traffic engineer have discussed five potential improvements to U.S. 1 and local roads. One is at the intersection of U.S. 1 and Key Deer

Boulevard converting the existing exclusive west/southbound right-turn lane to a shared through/right-turn lane. Second, at the same intersection, adjusting the signal timing or converting to an adaptive signal. Third, that a new mid-block pedestrian crosswalk with a hybrid beacon west of the Key Deer Boulevard stoplight on U.S. 1 be added near the existing bus stop. Four, add a new northbound right-turn lane from U.S. 1 to Deer Run Trail. Five, add a new right turn lane from Deer Run Trail to northbound U.S. 1. Those are proposed and under consideration. The most recent set of plans have not been revised since the April meeting with FDOT so staff is asking that all of those comments be addressed in the revised set of plans.

The County's transportation review stated that the analysis showed some impacts to Segment 10 along U.S. 1 that would put the level of service of that segment within the five percent allocation below LOS C and some of these improvements along U.S. 1 should help mitigate that and this is still being worked on. Therefore, staff found Standard 5 is not in compliance at this time mainly due to the roads. The other public facilities had no issues.

Standard 6 having to do with the financial and technical capacity of the applicant to complete the development, staff found no evidence to support or disprove their capacity and so found that in compliance. Standards 7 and 8 have to do with historical resources and access to waterfront areas and there are none. Standard 9 relates to the proposed use complying with all additional standards imposed on it by the LDC. There are several areas not in compliance and they are as follows: As to NROGO, previously the County had found there was 731 square feet of floor area lawfully established and exempt on the flea market site. Given that the proposed building would be 47,513 square feet, an NROGO application of 47,782 square feet would be required to complete the development. There are several policies that restrict the maximum allocation that can be awarded for this project. Per LDC Section 138-51B, the amount of non-residential floor area to be allocated on Big Pine Key shall be limited to a maximum share of 10,000 square feet for any one such site per each allocation quarter. That policy is general to Big Pine Key and there are other policies restricting that further such as the 2,500 square foot limit per site previously mentioned. Additionally, at the end of May of this year, the NROGO balance in the Big Pine and No Name sub-area was 10,431 square feet.

There are also compliance issues as to required setbacks. There are encroachments indicated on the plans throughout the site, particularly on the front-yard setbacks on both the Main Parcel and Parcel C which is the parcel next to Quail Roost Trail. The plans did not indicate the primary or secondary front-yard setbacks on Parcel C and the rear-yard setback was mislabeled on Parcel C. Another issue is where the front yard setbacks are measured from. The applicant is proposing measuring from the edge of pavement, though normally setbacks are measured from property lines. Given the private roads and easements, this is something that needs to be worked on to see what makes sense in this case. There are areas that have paving and outdoor lights in the setbacks and normally this is not permitted. As to the maximum building height, there is a discrepancy between existing grade on the plans and on the survey. Not all required information is indicated on the elevation plans so corrections are being requested. As to off-street parking there are a few compliance issues. Based on the size of the development 190 spaces would be required. The site plan indicates 206 off-street parking spaces including 186 regular spaces, 12 ADA spaces and 9 RV/trailer spaces. The issues with off-street parking include a setback encroachment with the RV spaces. The plans indicate that the RV spaces enter from Palomino

Horse Trail and pull through so there would not be any backing up, but they do not indicate any arrows or signage to tell the drivers that's what they are supposed to do. Staff is requesting additional information on the plans to ensure that happens. Since there are extra spaces proposed, staff recommends the applicant reduce the number of extra spaces to work on the mentioned site design issues. The plans do not indicate any wheel stops or similar barriers which are required by the County Code for certain spaces in front of a building or adjacent to landscaping. The applicant has stated that Publix has a policy of not allowing wheel stops. Staff is asking for documentation of that policy, but that a variance would be required to be approved by the Planning Commission to eliminate the wheel stop requirement, if they can meet the standards for variance approval.

There is also a bike rack required which is indicated on the plans but staff is requesting additional detail. For the loading and unloading spaces, the required spaces are indicated, but staff and the County traffic consultant are asking for additional details mainly regarding the maneuvering path of the trucks. As to roads and access, site circulation and the driveway access standards, compliance is to be determined. Staff would recommend to the Planning Commission that all of the five U.S. 1 improvements under consideration, if warranted, be conditions ensuring those improvements are made prior to issuance of a permit, to include a notice of intent letter from FDOT, a performance bond or letter of credit in an amount sufficient to guarantee offset of the cost preparing the studies and constructing the improvements. If warranted and approved by FDOT the improvements should be completed and accepted by FDOT within a time certain of issuing a CO for the supermarket. There are numerous comments already provided regarding the traffic study which need to be addressed through the revised traffic study and the plans, some of which relate to the clear-sight triangles as to the access points and parking lot design. As to the solid waste and recycling requirements, staff is requesting additional detail, but those collection areas are indicated on the plans.

Mr. Mike Roberts then covered issues relating to the HCP and environmental. Ms. Santamaria asked him to start with stormwater at page 11 of 27, paragraph B towards the bottom. Mr. Roberts explained that the stormwater plans appeared to be in compliance as far as the provided calculations and there were some details at page 19 with specific review comments. At the bottom of page 18 for the stormwater pollution prevention plan, there is a general note referring to the contractor being able to adopt or not adopt the standards in this plan, but this is not an option. Regarding the ex-filtration trench details, specific values for those items need to be provided so the appropriate calculations can be done. For landscaping, there were some discrepancies between numbers of plants to be moved and planted, but he believes it may have been a counting error so those items need to be corrected. Green island ficus is on the proposed planting list and there are two types of plants by this name; one of which is a huge tree which will dominate and likely tear up the parking lot, and the other one is a category one invasive species. There were also ground cover species included that need to be looked at and staff made recommendations for alternatives. Mr. Roberts also pointed out that none of the documents for the HCP, the LCP and the incidental take permit for Key deer cover additional improvements to U.S. 1, so additional coordination and consultation with U.S. Fish and Wildlife Service will be required. The applicant is already in consultation with FWC regarding the H impact associated with traffic which is the major issue at that site for Key deer. Ms. Santamaria clarified that the HCP was in compliance with number 19 of the ITP, but not yet in compliance with the H

calculation. Mr. Roberts confirmed that was correct, adding that the question had been whether or not the proposed activity constituted new development or redevelopment. FWC had determined that it was redevelopment and thus the activity itself was covered under the HCP, but the development of an appropriate H calculation was still required.

Mr. Bond then continued with a couple of final notes. Some improvements were indicated to Deer Run Trail, part of which would be located on Parcel A, but so far Parcel A had not been officially part of the application. Since it is indicated on the plans as having some improvements made within it, it should be clarified if that parcel is going to be part of the application and, if so, all of the required information for that parcel needs to be added to the application. The Fire Marshal, County Engineer and the Transportation Consultant have all made comments that need to be addressed, so Standard 9 of the Major Conditional Use permit criteria is not in compliance.

Staff's recommended action is that eight different things outlined at pages 26 and 27 of the memo be addressed prior to scheduling the Planning Commission Hearing. Ms. Santamaria added that these essentially addressed all of the items outlined in the staff report presented by Mr. Bond. Ms. Santamaria asked for further staff comment. There was none. Ms. Santamaria asked if the applicant would like to speak.

Mr. Bart Smith spoke on behalf of the applicant and indicated they had been working with staff to address many of these comments and would continue to do so as to Items 3, 5 and 9, along with all of the Recommended Actions 1 through 8. Mr. Smith confirmed the applicant was also coordinating with FWC and were awaiting a response back from them on the recalculation of the H. They will continue coordinating with FDOT, the other agencies and everyone else necessary to get this to approval. Ms. Santamaria then asked for public comment.

Ms. Hareen Gershman of Davie and Big Pine Key stated she has had a business at the flea market for almost 25 years as a planned early retirement from 42 years in the insurance industry. She wanted a fun retirement plan to subsidize her income. She has nine booths in the fresh-air market. Most people call the flea market their outdoor mall. When she sets up on Fridays, she finds the Key deer sleeping under the canopies along with the marsh rabbits under the wheels of the trailers. They live there but when they see the people, they go to the wetlands behind the booths. These deer, rabbits and free-range cats know the market's schedule, understand that it is open 12 hours a week, and they return after the market closes on Saturdays and Sundays. Ms. Gershman explained that she lives in Davie and loves coming to Big Pine because of the slow-paced living and seeing all of the endangered animals. She bought a mobile home in Seahorse RV Park and after several years, bought a home a few blocks away, which was 14 years ago. This was just before the local workforce housing was evicted to move ROGO points to Stock Island to build a hotel. Ms. Gershman stated it was very sad for her to see good working people with no place to live. She would hate to see her favorite marsh rabbits, cats and silver rice rates, and especially the Key deer have to leave their favorite places while Publix fills in the only waterhole in the area which is located on Plat L. Ms. Gershman explained that this old waterhole wetland had been used to fill Henry Flagler's train with water in 1910 and is a very, very deep well which shouldn't be blocked or built around. The plans show a semi-truck lane would be made through or near it which would totally upset all of the wonderful creatures. Additionally, there is the school off U.S. 1 by the market and she is concerned as to how the children will be

protected, noting there would be a price to pay if a child gets hit or killed by someone going to Publix. The market presently supports the school with their fund raisers by allowing them to sell their baked goods at the market. She also questioned how Publix could sell beer and wine that close to a school and church. Ms. Gershman stated that if this project is allowed to become a reality, her livelihood will be destroyed. This market is world-known and there are customers from all over the world, including from Key Largo to Key West. The resident snow birds that come down for six months out of the year love this market and it is where they shop. Ms. Gershman has worked extremely hard to build her business to what it is today and she has a lot invested in Big Pine Key, along with supporting the businesses in Big Pine. There are business owners there who are young adults with young children, retirees and physically handicapped people, most of whom have been at this market for over 20 years. The market brings in customers who shop in Big Pine, who enjoy this market and don't want it gone. Many citizens and staff were involved in the Livable CommuniKeys process where hundreds of hours were spent shaping a plan for the future of Big Pine Key and future development has restrictions as to size and location to maintain the character of the community that residents desire. This proposed development plan does not appear to adhere to that LCP. Ms. Gershman can picture no scenario under which this development will work in that location without creating more congestion. There are many salient reasons to turn the project down. The flea market is only open two days a week. Publix would be a seven-day event.

Ms. Debra Bliss of Big Pine Key stated she loves the island and the slow pace and wants to keep the island the same. The traffic is horrendous in the winter when the snow birds come down, many of whom own their own home. This meeting is being held in the summertime when they are not here and they don't have a voice so she is speaking for the snow birds as well. There is already a grocery store on Big Pine that sells everything that Publix does and another one is not needed. One liquor store that had been on the island for years was shut down with Walgreens and Winn Dixie both selling liquor. There is no need for someone else to sell liquor. A homely place is needed and that is what is in Big Pine. Another store is not needed. Big Pine should stay Big Pine. "Please don't build Publix here."

Ms. Dottie Moses of Key Largo stated the big elephant in the room is where the NROGO square footage would come from for this project. She does not know why this is being discussed without that being resolved. She had heard they were going to attempt to use the canopies as existing commercial space. Ms. Moses believes this would be a huge precedent-setting nightmare for the entire Keys with all of the little vegetable stands and picnic areas being turned into commercial buildings if that were to go forward. Ms. Santamaria responded that the staff report, on pages 3 and 13, describes a 2011 and earlier 2017 LDRD that recognized 731 square feet of NROGO and 88,924 square feet of canopy space separate from that. It did not recognize any additional NROGO with those documents and the canopies were not counted towards the existing NROGO, nor would they be. Ms. Moses continued that there would then be no way to get more NROGO in that location. Ms. Santamaria added that the applicant could propose changes to the Comp Plan, the LCP, the ITP or HCP, and that this would be their choice. She believes the applicant is still deciding on what their next step will be in terms of the NROGO issue.

Ms. Deb Curlee of Cudjoe Key reiterated the traffic concerns on Big Pine, stating that any additional traffic would be a total nightmare. As to adding lanes for turn lanes, it is important to remember that any additional pavement would be more lanes that the Key deer have to travel across which would increase the number of Key deer deaths from traffic. Ms. Curlee also does not understand how the NROGO could be acquired. Big Pine and the Lower Keys need to stay the way they are. The Livable CommuniKeys plans throughout the Lower Keys reflect that the community does not want the kind of development that is going on elsewhere in the Keys and the wonderful Lower Keys need to be preserved.

Mr. Fred Pratt of Big Pine Key stated that he understands that the property owner wants a big payday and that the attorneys and developers want to earn their money. He does not know where they live, but he cannot believe that anyone familiar with Big Pine and U.S. 1 could seriously contemplate, in such a sensitive ecological area, widening the highway, increasing the traffic, killing more Key deer and overall having such a detrimental effect on the quality and unique character of Big Pine. He does not believe that any latitude, changing of the rules or special consideration should be given to this project whatsoever.

Mr. Bill Hunter of Sugarloaf Key asked when the new traffic time and delay study would be available. Ms. Santamaria responded that it had just been received from the consultant and that staff would be processing it for the BOCC most likely in August. Mr. Hunter suggested that the traffic issues should be worked out in conjunction with those results rather than the two year-old traffic delay results. Mr. Hunter then asked who would provide the H mitigation for this project. Ms. Santamaria responded that right now, the County provides H mitigation for all development on Big Pine Key. Mr. Roberts added that the County has acquired a little over 90 percent of the required H in the HCP to date. Ms. Santamaria stated that was for both residential and commercial, for the total mitigation required by the HCP. Mr. Hunter asked if this development was included in the mitigation acquired. Ms. Santamaria explained that there is no specific development, but it had caps of 200 units, 47,000 square feet of floor area, certain public improvements, the road widening, and possibly a handful of other things. All of those things were covered by that mitigation. Mr. Hunter then asked if that anticipated that the canopy shades would turn into NROGO. Ms. Santamaria stated there was no discussion of that. Mr. Hunter then commented that he has tried to visualize all of the proposed changes that would occur at the intersection where the light is and the turn lanes at Deer Run and it seems like there would be help for exiting shoppers that are turning east or right, but exiting shoppers turning left or west would not have much help, consisting of those people living west of Key Deer and in the Lower Keys. He believes if this were built it would draw people all the way down to Sugarloaf who would enter making a right, but need to make a left when leaving. The mitigation being offered doesn't appear to help left turns very much. Taking the right-hand turn lane for westbound traffic that today turns onto Key Deer and turning that into a right-turn and through lane, today would lead to a drainage ditch. Then, this traffic must eventually merge and he wanted to know where this merge would occur and what problems may occur there. He does not see that as much help at all. Mr. Hunter then asked about the level of service on the side roads which touch U.S. 1. He does not believe the County measures the level of service on those side roads but believes it may be time to start doing that because this is an example of the people coming down from north of Big Pine having a lot more difficulty at the light if these changes are made. He believes the level of service on Key Deer Boulevard itself should be part of this Major

Conditional Use as it will have an impact on the community. Mr. Hunter then referred to the staff report, page 5, line 2, where it described one of the ways to get NROGO would be to allocate non-residential floor area reclaimed due to the abandonment or expiration of approved development. He asked whether that was approved development that had not actually been built or approved development built twenty years ago. Ms. Santamaria responded that it was approved development that has not been built, which is the same for both NROGO and ROGO. Ms. Santamaria explained that if someone gets a permit and doesn't actually take action and lets the permit expire, the County recoups both the residential and NROGO allocation. Mr. Hunter then asked if an owner, such as the County, were to abandon a building like Habitat, if the NROGO would go to the bank. Ms. Santamaria stated it does not go to the bank, but stays with the property. Mr. Hunter then referred to page 9, line 9 of the staff report, again referring to the NROGO, and asked when the NROGO would be required to be in compliance and resolved in this whole approval process time line. Ms. Santamaria pointed out Standard 9 at page 12, where there must be compliance with all other provisions of the LDC. That would eventually need to be addressed so staff could say that the provision are either in compliance or not in compliance. Mr. Hunter asked about Ms. Santamaria's use of the word "eventually" and expressed his desire to pin it down. Ms. Santamaria added that the Planning Commission would look to see if it was in compliance and make their recommendation or determination at that time.

Mr. Hunter then referenced page 10, line 45 of the staff report discussing a new mid-block crosswalk with a hybrid beacon, and asked what a hybrid beacon was. Mr. Bond responded that it was The Hawk, the same as the one recently replaced in Key Largo. Mr. Bond explained for those unfamiliar with the mid-block crossing in Key Largo, that the original light installed had caused a lot of problems. This light called The Hawk Signal either flashes or has a solid red light that gets traffic to stop, not a flashing yellow. This would be the type of light installed if deemed warranted and approved by FDOT, but there were a few more steps to go before that would happen. Mr. Hunter commented that this was a great improvement. He then referred to page 11, line 21 regarding Level of Service D on County roads which hinted at a degradation on County roads which also speaks to what he had brought up earlier. On page 11, line 33, it states the recommendations would mitigate the impact, the impact being the congestion at that light and the increased traffic. Mr. Hunter asked that this be supported with data rather than based on estimation. Data is required because he believes traffic is one of the biggest issues present.

Mr. Thomas Fletcher of Big Pine Key commented about the swale area at the rear of the flea market which would be a water retention area. His concern is about the water overflow and that everything will be directed onto his parcels with a big torrential rain. He explained that there is a woodland habitat area to the west and his question was whether a culvert could be constructed to direct it into the woodland area or another native area that could handle it without impacting his parcels. Mr. Roberts responded that trench drains were proposed as well as a requirement to treat the first half-inch prior to discharge to those trench drains. Based on the calculations and grading plans provided, it appeared they would meet the criteria. Mr. Roberts added that the Code prohibits post-development discharge being greater than pre-development discharge so no more water should go onto his parcels than does presently. Mr. Fletcher asked if there were plans to elevate the parcel which would increase the slope. Ms. Santamaria interjected that staff did not have that level of detail yet. Mr. Roberts stated he believes there would be some grade alterations but did not know what the total import/export values would be.

Mr. Ken Bliss asked when the traffic study would be done. Ms. Santamaria responded that it had been done. Mr. Bliss indicated he thought he had heard something about August. Ms. Santamaria stated that was referring to the County's traffic study which was done every two years to measure Level of Service on U.S. 1. That data had been captured in March and April and the report had just been submitted to staff and would be presented to the BOCC for review and approval. Mr. Bliss wanted to confirm that it had not been done during the slow part of the year. Ms. Santamaria confirmed that it was done during the high part of the year.

Ms. Santamaria asked for further public comment. There was none. Ms. Santamaria reminded everyone that the staff report was available online. The applicant did not wish to add anything further.

ADJOURNMENT

The Development Review Committee meeting was adjourned at 2:55 p.m.